

Colorado Water Congress
State Affairs Committee Meeting
Report prepared by the Southwestern Water Conservation District

January 16 2018 Water Legislation Report #1 (2018 Legislative Session)

The State Affairs Committee met on January 8 and 16 to discuss proposed water legislation for consideration in the 2018 legislative session, which convened on January 10. Five Water Resource Review Committee bills were introduced on the first day of the session: **SB 19** (Expanded Duration for CWRPDA Revolving Loans), **SB 38** (Reclaimed Water Use on Industrial Hemp), **SB 041** (Authorize Water Use Incidental Sand and Gravel Mines), **HB 1008** (Mussel-free Colorado Act), and **HB 1053** (Reclaimed Water Use for Marijuana Cultivation). **HB 1069** (Reclaimed Water Use for Toilet Flushing) was discussed during the WRRC process but did not receive the 2/3 majority necessary for an Interim Committee bill. However, it was introduced early in the session as was **SJR 003** (Water Projects Eligibility Lists) for the Colorado Water Resources and Power Development Authority. For a detailed summary and Committee positions, please see the full table below.

Among these bills, those related to the use of reclaimed water are an important step for the implementation of Colorado's Water Plan, but probably the most important bills for southwestern Colorado are funding the aquatic nuisance species inspection program, and extending the loan repayment term for CWRPDA (Colorado Water Resources and Power Development Authority) loans. Quagga mussels are already a problem in Lake Powell, and it is critical to prevent the spread of those aquatic nuisance species transported on watercraft to other reservoirs in southwest Colorado like McPhee Reservoir and others. Should aquatic nuisance species take hold in Colorado reservoirs, the costs to mitigate the impacts of infestation on dams and infrastructure would be significant and burdensome.

The following is a summary of legislative concepts being discussed, with no draft legislation yet available:

Water Funding Discussion Group

A water project funding discussion group has met (led by Dick Brown and Chris Treese) to brainstorm potential solutions to the stress on state water management funding. This effort stems in part from the 2017 State Affairs Committee motion to advocate with legislators and the state administration that:

1. Colorado either find alternative or additional revenue sources to support water projects and programs or implement fiscal management structures that both protect current revenues for their statutorily intended uses and that accommodate more consistent and predictable annual appropriations;

2. All water-related projects and programs should be evaluated on a common and consistent basis (i.e., eliminate the current, uncertain, and erratic Tier II funding category), and
3. The current Tier II funded water programs, Native Species Conservation Trust, Aquatic Nuisance Species prevention and mitigation, and Water Supply Reserve Account (WSRA) are each too important to leave reliant on severance tax surpluses (Tier II). Each should be removed from Tier II and prioritized the same as and along with other CWCB severance tax funded programs.

Taxes

Several legislators are considering legislation that would amend/revise the Gallagher Amendment and Taxpayers Bill of Rights (TABOR), both potentially impacting tax revenue for local water entities.

NISP Mitigation

A study group convened by Northern Water met several times over the summer to discuss potential legislation which may be needed to protect mitigation flow requirements for the Northern Integrated System Project (NISP). Northern proposed similar legislation last year that did not pass out of the Senate Ag Committee.

Mined Land Reclamation

In 2017, the SWCD board heard from advocates of proposed legislation to prohibit mining companies from self-bonding for reclamation commitments, and require new mining permits to identify water treatment programs for the life of the mine. Initial draft legislation has not yet been made available.

Pumped Hydro

Representative Hansen plans to introduce legislation to increase storage and increase Colorado's energy resources, including providing incentives for pump-back hydroelectric power from existing and new storage.

TENORMs

Rep. Arndt has convened a working group to draft legislation addressing the safe collection and disposal of technologically enhanced naturally occurring radioactive materials (TENORM) in solid waste landfills to provide clarity to the oil and gas industry and wastewater treatment plants in Colorado. The Representative's principal concern is the long-term health of groundwater. The House Ag Committee will hear a presentation on TENORMs management.

Sea Plane Landings

Again in 2018, sea plane advocates will be seeking to advance a pilot program to allow planes to land on at least two lakes or reservoirs controlled by CPW. Similar proposals in recent years have failed out of concern for opening reservoirs to aquatic nuisance species risks since inspection would be difficult. CPW continues to talk with the advocates regarding ANS concerns.

Appointments

At the January 8 meeting, several appointments were announced. University of Colorado Law Professor Melissa Hart has been appointed to the Colorado Supreme Court. On the Colorado Water Conservation Board, terms expire for Jim Yahn (North Platte), Ty Wattenberg (South Platte), and John McClow (Gunnison). Both McClow and Wattenberg are term limited. State Representative Diane Mitsch Bush resigned to run for the 3rd Congressional District seat held by U.S. Representative Scott Tipton. She has been replaced by Rep. Dylan Roberts. Rep. Mitsch Bush was the Vice-Chair of the House Ag Committee, so the committee makeup will change for 2018. Three board terms on the Water Quality Control Commission will expire in early 2018.

Proposed Legislation Summary:

The following table provides a detailed summary of water-related legislation introduced during the current session. The format of each bill includes five columns and a following **Summary** cell. The 1st, 2nd, 4th, & 5th column each contain two information items as follows: 1st column has both the **Bill No.** and the **Short Title**. The 2nd column has both the **Sponsors** and the assigned **Committee**. The 3rd column contains only the **Concerning** statement, copied directly from the bill. The 4th column will show important **Amendments** and **Comments** provided by SWCD staff. The 5th column shows both **When Introduced**, **CWC Action**, and **SWCD Position**. Once a bill no longer requires SA Comm action I will include it in a summary table, which will also show its progress. Until CWC takes action, the bill will remain in this format. I will however, **highlight in yellow** changes in any of the cells, compared to the prior report. Once, CWC has acted on a bill, I will move it to the **Status table**, where its' progress can be more easily monitored.

If you are aware of other entities that would like to receive these reports, please contact the Southwestern Water Conservation District office at 970-247-1302 with e-mail contact information. Once introduced, copies of bills are available at www.leg.state.co.us. Additional info is available at the CWC web site: <http://www.cowatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

Senator Don Coram (SD 6):	303-866-4884	don.coram.senate@state.co.us
Representative Barbara McLachlan (HD 59):	303-866-2914	barbara.mclachlan.house@state.co.us
Representative Marc Catlin (HD 58):	303-866-2955	marc.catlin.house@state.co.us

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB 019</p> <p>Expanded Duration for CWRPDA Revolving Loans</p>	<p>S Donovan/Coram H Hansen/Arndt</p> <p>Ag, Natural Resources & Energy</p>	<p>CONCERNING AN EXPANSION OF THE DURATION FOR WHICH THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY MAY MAKE A LOAN UNDER THE AUTHORITY'S REVOLVING LOAN PROGRAMS.</p>		<p>01/10/2018</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. Water Resources Review Committee. Pursuant to the federal clean water act and the federal "Safe Water Drinking Act", the Colorado water resources and power development authority (authority) makes loans under its water pollution control revolving fund and its drinking water revolving fund. Under state law, the duration of any water pollution control loan made by the authority must not exceed 20 years after project completion; however, the federal clean water act now allows for loans up to the lesser of 30 years or the projected useful life of the project, as determined by the state. The bill removes the 20-year limitation on water pollution control loans and authorizes the authority to make loans in compliance with the clean water act and the "Safe Water Drinking Act."</p>				
<p>SB 038</p> <p>Reclaimed Water Use on Industrial Hemp</p>	<p>S Donovan/Coram H Esgar/Willett</p> <p>Ag, Natural Resources & Energy</p>	<p>CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR INDUSTRIAL HEMP CULTIVATION.</p>	<p><i>Support was conditioned on an amendment being introduced to clarify language that the water rights allow for reuse.</i></p>	<p>01/10/2018</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. Section 3 of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds industrial hemp cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. Sections 1, 2, and 4 make conforming amendments.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB 041 Authorize Water Use Incidental Sand and Gravel Mines	S Coram/ Baumgardner H Saine/Arndt Ag, Natural Resources & Energy	CONCERNING THE ABILITY OF OPERATORS OF SAND AND GRAVEL MINES TO USE WATER INCIDENTAL TO SAND AND GRAVEL MINING OPERATIONS TO MITIGATE THE IMPACTS OF MINING.		01/10/2018 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: Water Resources Review Committee. Current law requires operators of sand and gravel open mines that expose groundwater to the atmosphere to obtain a well permit and either: A replacement plan approved by the ground water commission for designated groundwater; or a plan for augmentation approved by the water court or a plan of substitute supply approved by the state engineer for tributary groundwater. The bill specifies that the replacement plan (in section 1 of the bill) or the plan of substitute supply (in section 2) and the permit may authorize uses of water incidental to open mining for sand and gravel, including specifically (among other things) the mitigation of impacts from mining and dewatering.</p>				
SJR 003 Water Projects Eligibility Lists	S Baumgardner H Arndt	CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.		01/12/2018 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: The annual eligibility list for the water projects revolving fund is set forth in this Senate Joint Resolution. These water projects are ranked in priority for financial assistance to improve drinking water facilities or wastewater treatment facilities administered by CWR&PDA. The Water Quality Control Commission has made changes to the list, and the legislature must approve them before funding can take place. The list must be submitted to the legislature on or before January 15 and must be presented to the governor by April 1 of each year.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB 1008 Mussel-free Colorado Act	H Esgar/Ardnt S Donovan/Coram Ag, Livestock & Natural Resources	CONCERNING THE FINANCING OF THE DIVISION OF PARKS AND WILDLIFE'S AQUATIC NUISANCE SPECIES PROGRAM, AND, IN CONNECTION THEREWITH, CREATING AN AQUATIC NUISANCE SPECIES STAMP FOR THE OPERATION OF MOTORBOATS AND SAILBOATS IN WATERS OF THE STATE, INCREASING PENALTIES RELATED TO THE INTRODUCTION OF AQUATIC NUISANCE SPECIES INTO THE WATERS OF THE STATE, AND COMBINING TWO SEPARATE FUNDS RELATED TO THE AQUATIC NUISANCE SPECIES PROGRAM INTO ONE FUND.		01/10/18 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: Water Resources Review Committee. Section 3 of the bill updates a legislative declaration concerning aquatic nuisance species to encourage the federal government to dedicate sufficient funding and resources to the detection, prevention, control, and eradication of aquatic nuisance species for federally owned or managed aquatic resources and water infrastructure in Colorado. Section 4 defines "motorboat" and "sailboat". Section 5 authorizes the division of parks and wildlife (division) to seek reimbursement from a conveyance owner (i.e., motor vehicles, trailers, and watercraft) for the storage and decontamination of a conveyance that has been impounded and quarantined due to the suspected presence of an aquatic nuisance species. Section 6 requires an in-state resident registering a motorboat or sailboat in Colorado for use on or after January 1, 2019, to pay a \$25 fee for an aquatic nuisance species stamp in addition to the watercraft registration fee. A nonresident using a motorboat or sailboat in waters of the state on or after January 1, 2019, is required to pay a \$50 fee for an aquatic nuisance species stamp. Section 7 increases penalties related to aquatic nuisance species and creates new penalties for failing to purchase an aquatic nuisance species stamp; failing to comply with a qualified peace officer's or an authorized agent's request to stop, detain, and inspect a vessel; and launching a vessel without first obtaining a vessel inspection at an aquatic nuisance species check station. Section 8 combines the division of parks and outdoor recreation aquatic nuisance species fund and the division of wildlife aquatic nuisance species fund into a single fund: The division of parks and wildlife aquatic nuisance species fund. Sections 1, 2, 9, and 10 make conforming amendments.</p>				
HB 1053 Reclaimed Water use for Marijuana Cultivation	H Arndt/Hansen S Donovan Ag, Livestock & Natural Resources	CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR MARIJUANA CULTIVATION	Support was conditioned on an amendment being introduced to clarify language that the water rights allow for reuse.	01/10/18 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: Water Resources Review Committee. The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. Section 3 of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds marijuana cultivation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. Sections 1, 2, and 4 make conforming amendments.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB 1069 Reclaimed Water for Toilet Flushing	H Arndt.Thurlow S Coram Ag, Livestock & Natural Resources	CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR TOILET FLUSHING.		01/10/18 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: The bill codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning allowable uses of reclaimed domestic wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water. Section 3 of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds toilet and urinal flushing in multifamily residential and nonresidential structures as allowable uses for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater. Sections 1, 2, and 4 make conforming amendments.</p>				

